

INSTRUCTIONS: File the original and three copies of this complaint with the Board at 528 Cottage Street NE, Suite 400, Salem, Or 97301 Phone (503) 378-3807

**STATE OF OREGON
EMPLOYMENT RELATIONS BOARD**

For the Board Use Only

Case No. UP-024-16

Date Filed 8/19/14

UNFAIR LABOR PRACTICE COMPLAINT
Public Employment

COMPLAINANT name/address: Oregon AFSCME Council 75 Local # 3997 501 NE Greenwood Ave., Suite 500 Bend, Oregon 97701	Name/address/phone of Complainant's representative: Jennifer K. Chapman, Legal Counsel 1400 Tandem Street NE Salem, Oregon 97301 503-370-2522
RESPONDENT name/address Deschutes County 1300 NW Wall St. # 200 Bend, Oregon 97701	Name/address/phone of Respondent's representative: Chris Bell Deschutes County Legal Counsel 1300 NW Wall St. # 205 Bend, Oregon 97701 541-330-4683

Complainant alleges that Respondent has committed an unfair labor practice under ORS 243.672(1)(g) of the Public Employee Collective Bargaining Act. The following is a clear and concise statement of the facts involved in each alleged violation, followed by a specific reference to the section and subsection of the law allegedly violated. (For each claim, specify dates, names, places and actions. Attach copies of main supporting documents referred to in the statement of claims.)

See Attached

I certify that the statements in this complaint are true to the best of my knowledge and information.

By Jennifer K. Chapman
Signature of Complainant or Complainant's Representative

Legal Counsel
Title

8/18/16
Date

ATTACHMENT TO UNFAIR LABOR PRACTICE COMPLAINT

I. THE PARTIES

1. Deschutes County (the "County") is a public employer under ORS 243.650(20).
2. The American Federation of State, County and Municipal Employees, Local 3997 ("AFSCME") represents all employees of Deschutes County, except for supervisors, confidential employees, temporary employees, employees who work less than half-time, and employees included in other bargaining units. AFSCME is a labor organization under ORS 243.650(13).
3. At all material times, Stacy Van Epps ("Van Epps") was employed by the County as a Behavioral Health Specialist III and was/is represented by AFSCME.

II. THE COLLECTIVE BARGAINING AGREEMENT

4. The County and AFSCME are parties to a collective bargaining agreement that expires June 30, 2017 (the "Contract"). A copy of the Contract is attached as Exhibit 1.
5. Article 6 prohibits the County from disciplining or discharging represented employees without just cause. Article 6 also requires the County to use progressive discipline except when the nature of the problem requires more serious action.
6. Article 7 of the Contract contains the parties' grievance procedure. The four-step procedure does not contain a binding arbitration provision.

III. FACTUAL BACKGROUND

7. On February 23, 2016, the County issued an oral warning to Van Epps. A copy of the documentation given to Van Epps with the oral warning is attached as Exhibit 2.
8. On March 15, 2016, the County issued a written reprimand to Van Epps. The written reprimand was labeled a "Work Improvement Plan," but it contained multiple provisions critical of Van Epps' performance. A copy of the reprimand is attached as Exhibit 3.
9. On March 17, 2016, the County informed Van Epps that it was changing her work schedule as a punishment. A copy of the email notice given to Van Epps confirming the schedule change is attached as Exhibit 4.
10. The County did not have just cause to impose an oral warning, written reprimand, or modified schedule on Van Epps. The County's discipline decisions therefore constitute violations of Article 6 of the collective bargaining agreement.

11. The County gave Van Epps less than 10 working days' notice of its decision to change her schedule, in violation of Article 10, Section 3 of the collective bargaining agreement.
12. AFSCME has properly and timely challenged the County's discipline of employee Van Epps described in paragraphs 7-9 through all available steps in the grievance process, and no remaining steps in that process (or processes) remain. A copy of the applicable grievances are attached hereto as Exhibits 5 & 6 and are incorporated herein.

IV. ALLEGATIONS

8. The County violated ORS 243.672(1)(g) by disciplining employee Van Epps with an oral reprimand in February 2016, without just cause, in violation of Article 6 of the parties' collective bargaining agreement.
9. The County violated ORS 243.672(1)(g) by disciplining employee Van Epps with a written reprimand in March 2016, without just cause, in violation of Article 6 of the parties' collective bargaining agreement.
10. The County violated ORS 243.672(1)(g) by disciplining employee Van Epps by changing her work schedule in March 2016, without just cause, in violation of Article 6 of the parties' collective bargaining agreement.
11. The County violated ORS 243.672(1)(g) by failing to give employee Van Epps at least 10 days' notice of its decision to change her schedule, in violation of Article 10 of the parties' collective bargaining agreement.

WHEREFORE, complainant requests the following relief:

- i. An order declaring that the County has committed unfair labor practices as alleged herein;
- ii. An order that the County cease and desist from committing unfair labor practices;
- iii. An order that the County remove any mention of the disputed disciplinary actions from Van Epps' personnel file;
- iv. An order that the County immediately reinstate Van Epps' to the work schedule she had prior to the imposition of discipline;
- v. An order that the County pay a civil penalty;

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- vi. An order that the County pay AFSCME its reasonable representation cost, including filing fees, expended in prosecuting this matter at hearing and on appeal; and
- vii. Any other further relief deemed necessary to do justice under the PECBA.

Dated this 8 day of August 2016.

Respectfully Submitted:



Jennifer K. Chapman
Legal Counsel, Oregon AFSCME